

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C. 20554**

In the Matter of	)	
Telephone Number Portability	)	
	)	
Comment Sought on Requests for Waiver	)	CC Docket No. 95-116
Of Wireless Local Number Portability	)	DA 04-800
Requirements	)	

To: Chief, Wireless Communications Bureau

**OPPOSITION OF VERIZON WIRELESS**

Choice Wireless LC (“Choice”), TMP Corp. and TMP Jacksonville (“TMP”), and Yorkville Telephone Cooperative, Inc. and Yorkville Communications, Inc. (“Yorkville”), (collectively, “Petitioners”) have requested waivers from wireless local number portability (“LNP”) obligations with durations ranging from three to six months.<sup>1</sup> Verizon Wireless sent bona fide requests (“BFRs”) to each of these carriers.<sup>2</sup> The Commission should promptly deny all three requests. The excuses used to support waivers include upgrading switches and efforts to coordinate or exchange information with other carriers (including Verizon Wireless), but none are availing. Given the long lead-time already provided for becoming LNP capable and the timely receipt of at least one BFR, these carriers do not demonstrate that there is “good cause” for further delays. Inadequate preparation does not now justify additional time. Otherwise, noncompliant

---

<sup>1</sup> *Public Notice*, Comment Sought on Requests for Waiver of Wireless Local Number Portability Requirements, CC Docket No. 95-116, DA 04-800, March 26, 2004.

<sup>2</sup> Specifically, Verizon Wireless sent BFRs to these carriers as follows: Yorkville 10/22/03; TMP 2/24/03; Choice 2/19/03. At the time of their March 23 and 24, 2004 filings, respectively, TMP and Choice had received a BFR from Verizon Wireless more than a year ago.

carriers will benefit from a willful lack of diligence and lax attempts to comply with the Commission's rules.

Waivers of the Commission's wireless LNP rules would not be in the public interest because they would prevent customers from porting and complicate the porting procedures for compliant carriers. Sales representatives need bright line rules on which areas will be porting and when so they can help customers achieve their porting requests. A patchwork of waivers allowing individual carriers different deadlines to port in a given area would be a recipe for consumer confusion and dissatisfaction. Consumers have been told by this Commission, countless news stories, and carriers' ads that they could expect to keep their telephone numbers when switching providers in major markets by November 24, 2003, and everywhere else by May 24, 2004. The Commission has held firm to the LNP mandate for wireless carriers despite several challenges to the rule.<sup>3</sup> In denying forbearance from the rule in 2002, the Commission affirmed that it was fostering competition<sup>4</sup> and protecting consumers by facilitating their ability to change providers through number portability.<sup>5</sup> Granting waivers at this late date would not be consistent with those findings.

## **I. PETITIONERS HAVE NOT MET THEIR LEGAL BURDEN**

The Commission may waive its rules for "good cause shown."<sup>6</sup> "In demonstrating such good cause, an applicant for waiver 'faces a high hurdle even at the

---

<sup>3</sup> Verizon Wireless's Petition for Partial Forbearance from the Commercial Mobile Radio Services Number Portability Obligation, *Memorandum Opinion and Order*, 17 FCC Rcd. 14972 (2002) ("*VZW Forbearance Order*"); Telephone Number Portability, CTIA Petition for Extension of Implementation Deadlines, *Memorandum Opinion and Order*, 13 FCC Rcd. 16315 (1998) ("*CTIA Extension MO&O*"); Telephone Number Portability, CTIA Petition for Forbearance from CMRS Number Portability Obligations, *Memorandum Opinion and Order*, 14 FCC Rcd. 3092 (1999) ("*CTIA Forbearance MO&O*").

<sup>4</sup> *VZW Forbearance Order*, ¶ 20.

<sup>5</sup> *Id.*, ¶¶ 16 & 18.

<sup>6</sup> 47 C.F.R. § 1.3.

starting gate.”<sup>7</sup> The FCC may exercise its discretion to waive a rule only “where particular facts would make strict compliance inconsistent with the public interest.”<sup>8</sup> The Petitioners have not demonstrated why requiring them to meet a long-known compliance deadline would be inconsistent with the public interest, and for this reason alone, waivers should be denied.

The Commission first ordered wireless carriers to offer LNP in 1996.<sup>9</sup> In July 2002, after a series of extensions, wireless carriers were ordered to offer LNP by November 2003 within the top 100 MSAs, and within six months after receiving a request for areas outside the top 100 MSAs.<sup>10</sup> There is no justification for Petitioners to claim now that they need more time to get ready for this long-standing mandate.<sup>11</sup> At every opportunity, in the face of requests to extend, remove, or forbear from the wireless LNP obligation, the FCC reinforced its intention to require wireless LNP as a competitive tool.<sup>12</sup> The Commission stated that the competitive reasons that led it to mandate wireless number portability in the *First Report and Order* remained fundamentally valid and that it remained committed to the basic regulatory approach outlined in prior orders.<sup>13</sup>

While Verizon Wireless appreciates that carriers may rely on vendors to supply LNP equipment and software, it appears that Petitioners were aware of the need to upgrade equipment as long as two years ago:

---

<sup>7</sup> Numbering Resource Optimization, Petition of TeleCorp PCS, Inc., *Order*, 16 FCC Rcd 19535, 19536 (2001) (citing *WAIT Radio v. FCC*, 418 F.2d 1153, 1157 (D.C. Cir. 1969)).

<sup>8</sup> *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

<sup>9</sup> Telephone Number Portability, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd. 8352, ¶ 155 (1996) (“*First Report and Order*”).

<sup>10</sup> *VZW Forbearance Order*, ¶ 31.

<sup>11</sup> Similarly, the FCC denied a waiver request by Western Wireless, finding that it had not demonstrated special circumstances required for an extension of the deadline. Telephone Number Portability, Western Wireless’ Limited, Conditional Petition for Waiver of Local Number Portability and Thousands-Block Number Pooling Obligations, *Order*, 18 FCC Rcd. 24692 (Wireline Comp. Bur. 2003).

<sup>12</sup> *VZW Forbearance Order*, ¶ 31; *CTIA Extension MO&O*; *CTIA Forbearance MO&O*.

<sup>13</sup> *VZW Forbearance Order*, ¶ 6.

- Choice Wireless decided to replace its TECORE switch manufactured by Airtel because of a long history bad performance<sup>14</sup> dating back to at least 2002, which necessitated waiver requests from two prior Commission mandates, 911 Text Telephone (“TTY”) and Communications Assistance for Law Enforcement Act (“CALEA”).<sup>15</sup> Choice now asserts it will not have compliant equipment available from Nortel until September 24, 2004.<sup>16</sup>
- TMP’s wireline and wireless companies shared a switch manufactured by Airtel.<sup>17</sup> Citing dissatisfaction with this equipment due to its inability to support the June 30, 2002 TTY mandate,<sup>18</sup> TMP worked with Nortel and expected installation of LNP capable equipment by April 15<sup>th</sup>, a little over a month before the deadline.<sup>19</sup> TMP asserts that the vendor’s schedule slipped and seeks a six-month waiver until November 24, 2004.<sup>20</sup>
- In addition to other problems indicated below, Yorkville needs to install and test new software features for its Aircore switch manufactured by Tecore Wireless Systems.<sup>21</sup> Yorkville asserts it cannot achieve full LNP capability until August 24, 2004.<sup>22</sup>

Petitioners should be required to show, through correspondence with vendors or otherwise, that they began preparing for LNP in earnest well before the pending deadline. Unsupported statements blaming the vendors, without demonstration of efforts to closely manage the vendors and incent them to meet the carrier’s deadline, and/or recent efforts to comply with LNP, do not substantiate good cause to justify a waiver.

Yorkville’s problems extend beyond switch capability to seeking resolution of basic numbering issues – tasks within its control to complete. Yorkville indicates that it failed to apply for an Operating Company Number (“OCN”) for its wireless operation

---

<sup>14</sup> Choice Petition, dated March 24, 2004, at 2-3.  
<sup>15</sup> *Id.* at 4.  
<sup>16</sup> *Id.* at 4-5.  
<sup>17</sup> TMP Petition, dated March 23, 2004, at 2.  
<sup>18</sup> *Id.*  
<sup>19</sup> *Id.* at 2-3.  
<sup>20</sup> *Id.* at 3.  
<sup>21</sup> Yorkville Petition, dated March 18, 2004, at 4.  
<sup>22</sup> *Id.*

and an NXX code and a Local Routing Number (“LRN”) for its wireless switch.<sup>23</sup> Yorkville should have known that these minimal numbering milestones needed to be completed before it could port. Moreover, the wireless industry, through industry forums and trade association meetings, educated carriers regarding important milestones for LNP compliance.<sup>24</sup>

Further, Yorkville cites the need to complete a Trading Partner Profile (“TPP”) with Verizon Wireless as another uncompleted task.<sup>25</sup> This does not, however, justify a waiver. Verizon Wireless expended significant efforts to complete its TPP covering its nationwide footprint several months before the November 2003 deadline for LNP compliance and stands ready to port with Yorkville in May. If Yorkville has done the necessary preparation, it should be able to complete its TPP with Verizon Wireless within a few days.

## **II. YORKVILLE HAS NOT JUSTIFIED A WAIVER FROM ROAMING OBLIGATIONS**

Yorkville’s waiver request extends beyond offering wireless LNP as a service to its customers and seeks to include a waiver from “support of roaming by customers with pooled or ported numbers” and “implementation of thousands block number pooling obligations.”<sup>26</sup> Yorkville’s request suggests noncompliance with the Commission’s mandate that wireless carriers support ubiquitous roaming, a requirement known well before wireless carriers began pooling or porting.<sup>27</sup> Specifically, in the 1996 *First Report and Order*, the FCC required wireless carriers to support nationwide roaming so that

---

<sup>23</sup> *Id.* at 2.

<sup>24</sup> CTIA Issues Forum, Dallas/Fort Worth, Texas, January 31- February 1, 2001; Institute for International Research, Washington, D.C., February 5, 2001; CTIA Critical Issues Forum, Baltimore, Maryland, July 18-19, 2001; CTIA Critical Issues Forum, San Francisco, California, January 22-23, 2002.

<sup>25</sup> Yorkville Petition at 3.

<sup>26</sup> *Id.* at 1.

<sup>27</sup> *First Report and Order*, ¶ 166.

roaming customers would not be harmed by the changes in the network required to support LNP (and later, pooling).<sup>28</sup> The purpose of this requirement was to ensure that if a customer with a ported number roamed into another CMRS carrier's network, that CMRS carrier would support that customer's ability to make and receive calls.<sup>29</sup> The FCC required all wireless carriers to support roaming by November 2003.<sup>30</sup>

In the *VZW Forbearance Order* proceeding, carriers explained that separation of the Mobile Directory Number (MDN) and Mobile Identification Number (MIN) would require many changes to wireless carriers' systems – changes that must be accomplished by every wireless carrier, including those operating outside the top 100 MSAs where pooling would not be implemented.<sup>31</sup> One of the reasons many carriers supported MIN/MDN separation was because it resolved many routing issues for roamers, including providing a valid call back number to public safety during enhanced 911 calls. Yorkville does not specify the reasons why it cannot support roaming by May 24, 2004 (or, indeed why it does not already support roaming as it is required to do). If its inability to roam was based on failure to split the MIN from the MDN, it was required to find another means to support roaming. While the FCC did not require MIN/MDN separation, it did firmly state, “We note that carriers choosing not to implement the industry selected MIN/MDN separation solution are not excused from their obligation to deliver call back numbers to Public Safety Answering Points (PSAPs), in accordance with the

---

<sup>28</sup> *Id.*; In mandating Local Number Portability for wireless carriers, the FCC stated, “We require all cellular, broadband PCS, and covered SMR carriers to offer service provider portability throughout their networks, including the ability to support roaming, by June 30, 1999.” *Id.* While the FCC modified the implementation deadline for wireless LNP, it never removed the requirement to support roaming. The changes to wireless network architecture are the same for LNP and number pooling.

<sup>29</sup> *VZW Forbearance Order*, fn #11 (citing Telephone Number Portability, *First Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 7236, 7313 ¶¶ 136-37 (1997)).

<sup>30</sup> *Id.*

<sup>31</sup> See *VZW Forbearance Order*, ¶ 24.

Commission's enhanced 911 (E911) rules."<sup>32</sup> Whatever the reason for Yorkville's inability to support roaming *today*, it should not be granted additional time to become compliant.

### III. CONCLUSION

For the foregoing reasons, the Commission should deny Petitioners' request for waivers from the LNP mandate, and any other associated requirements. By doing so, the Commission will send a strong and important signal to all carriers outside the top 100 MSAs that the time for nationwide porting has arrived and will not be waived.

Respectfully submitted,

**VERIZON WIRELESS**

By: John T. Scott, III

John T. Scott, III  
Vice President and Deputy General  
Counsel – Regulatory Law

Anne E. Hoskins  
Regulatory Counsel

Lolita D. Forbes  
Associate Director Regulatory Matters

Verizon Wireless  
1300 I Street, N.W., Suite 400-West  
Washington, D.C. 20005  
(202) 589-3740

April 12, 2004

---

<sup>32</sup> *Id.*, fn # 118.